

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLAYTON E. BUTSCH,

Plaintiff,

V.

DEPARTMENT OF CORRECTIONS, et
al.,

Defendants.

CASE NO. C13-5809 BHS

ORDER DECLINING TO ADOPT
THE REPORT AND
RECOMMENDATION AND
CLOSING CASE

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 13), and Plaintiff Clayton Butsch’s (“Butsch”) objections to the R&R (Dkt. 14).

On October 3, 2013, Judge Strombom issued the R&R recommending that the Court grant Butsch's motion to voluntarily dismiss his complaint. Dkt. 13. On October 10, 2013, Butsch filed objections arguing that Judge Strombom incorrectly converted his notice of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A) into a motion to dismiss pursuant to Fed. R. Civ. P. 41(a)(2). Dkt. 13. While the conversion is essentially a

1 procedural distinction without a substantive difference, the Court will honor Butsch's
2 notice that was mailed before Defendants answered.

3 Therefore, the Court having considered the R&R, Butsch's objections, and the
4 remaining record, does hereby find and order as follows:

- 5 (1) The Court **DECLINES** to **ADOPT** the R&R;
- 6 (2) The Court **ACCEPTS** Butsch's notice of voluntary dismissal; and,
- 7 (3) The Clerk shall **CLOSE** this case.

8 Dated this 20th day of November, 2013.

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12 BENJAMIN H. SETTLE
13 United States District Judge
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